

COMPLAINT

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MILLENNIUM PIPELINE COMPANY, L.L.C.,

*Plaintiff,*

-vs-

CERTAIN TEMPORARY EASEMENTS IN 322  
SLEEPY VALLEY ROAD, TOWN OF WARWICK,  
ORANGE COUNTY, NEW YORK, S.B.L. No. 31-1-  
17, BREAKAWAY TRAILS, INC., John Doe, et al.,  
and Unknown Owners,

And

CERTAIN PERMANENT AND TEMPORARY  
EASEMENTS IN (NO NUMBER) DISTILLERY  
ROAD, TOWN OF WARWICK, ORANGE  
COUNTY, NEW YORK, S.B.L. No. 29-1-21,  
GEORGE BURKERT AND ANNA BURKERT, John  
Doe, et al., and Unknown Owners,

And

CERTAIN PERMANENT AND TEMPORARY  
EASEMENTS IN (NO NUMBER) ROUTE 42,  
TOWN OF FORESTBURG, SULLIVAN COUNTY,  
NEW YORK, S.B.L. No. 39-1-11, ADELIA M.  
MASTERS, John Doe, et al., and Unknown Owners,

And

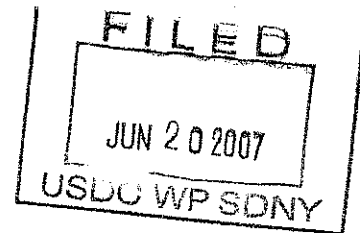
CERTAIN PERMANENT AND TEMPORARY  
EASEMENTS IN 65 LIBERTY CORNERS ROAD,  
a/k/a 61 LIBERTY CORNERS ROAD, TOWN OF  
WARWICK, ORANGE COUNTY, NEW YORK,  
S.B.L. No. 11-1-21.2, DOUGLAS A. PATZELT AND  
LAUREN PATZELT, John Doe, et al., and Unknown  
Owners,

And

07 CIV. 5815

COMPLAINT

Civil Action No.  
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**CERTAIN PERMANENT AND TEMPORARY  
EASEMENTS IN (No Number) Route 17A, TOWN  
OF TUXEDO, ORANGE COUNTY, NEW YORK,  
S.B.L. No. 1-1-34.2, SWISS NORTH AMERICAN  
PROPERTIES - USA, LLC, John Doe, et al., and  
Unknown Owners,**

*Defendants.*

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1. This is an action of a civil nature brought by plaintiff MILLENNIUM PIPELINE COMPANY, L.L.C. ("MILLENNIUM") for the taking of permanent and temporary easements in certain properties identified in the caption above and more fully below under the power of eminent domain and for the ascertainment and award of just compensation to the fee owners of such properties and any other parties in interest.

2. The authority for the taking is the Natural Gas Act, 15 U.S.C. §717, *et seq.*

3. The uses for which permanent and temporary easements in the property are to be taken are to acquire, construct and operate pipeline facilities from a new compressor station in Corning, New York (milepost 190.6) to the Ramapo, New York measuring and regulating station (milepost 376.6) pursuant to the December 21, 2006 Order issued by the United States Federal Energy Regulatory Commission ("FERC") entitled "Order Issuing and Amending Certificates, Approving Abandonment, Vacating Certificate and Granting and Denying Requests for Rehearing and Clarification" ("FERC Order"). MILLENNIUM accepted the FERC Order on January 19, 2007, and a copy of the FERC Order is attached hereto as Exhibit 1. The MILLENNIUM pipeline for which easements in the property are being taken will, *inter alia*:

- provide the northeast with access to gas supplies from the Dawn hub in Ontario, Canada and the upstream Chicago, Illinois hub;
- increase pipeline capacity in southeastern New York and provide access to existing storage fields in western New York;

- help satisfy the increasing demand for natural gas including from electric generating plants fueled primarily by natural gas at a time when the gas demand in New York is close to exceeding the capacity of the pipelines serving it and the demand in the New York City metropolitan area is growing.

Exhibit 1 hereto, pp. 29-30.

4. MILLENNIUM seeks to acquire temporary easements from property known as 322 Sleepy Valley Road, Town of Warwick, County of Orange, New York, S.B.L. No. 31-1-17, MILLENNIUM Tract No. 11O253 and more specifically described in Exhibit 2 attached hereto and made a part hereof. Such temporary easements to be acquired shall run under, on, across and through such property.

5. MILLENNIUM seeks to acquire permanent and temporary easements from property known as (No Number) Distillery Road, Town of Warwick, County of Orange, New York, S.B.L. No. 29-1-21, MILLENNIUM Tract No. 11O252 and more specifically described in Exhibit 3 attached hereto and made a part hereof. Such permanent and temporary easements to be acquired shall run under, on, across and through such property.

6. MILLENNIUM seeks to acquire permanent and temporary easements from property known as (No Number) Route 42, Town of Forestburg, County of Sullivan, New York, S.B.L. No. 39-1-11, MILLENNIUM Tract No. 10S228 and more specifically described in Exhibit 4 attached hereto and made a part hereof. Such permanent and temporary easements to be acquired shall run under, on, across and through such property.

7. MILLENNIUM seeks to acquire permanent and temporary easements from property known as 65 Liberty Corners Road a/k/a 61 Liberty Corners Road, Town of Warwick, County of Orange, New York, S.B.L. No. 11-1-21.2, MILLENNIUM Tract No. 11O182 and more specifically described in Exhibit 5 attached hereto and made a part hereof. The MILLENNIUM pipeline will cross the Pochuck Creek adjacent to such property, and whether

MILLENNIUM will construct the pipeline at such property according to the direct drill or horizontal drill methods of construction is presently unknown and will depend on creek water levels at the time of construction. Accordingly, Exhibit 5 depicts the parameters of the easements according to both construction scenarios, and MILLENNIUM will identify which construction method and corresponding easements it requires for the Project at the time of construction. Such permanent and temporary easements to be acquired shall run under, on, across and through such property.

8. MILLENNIUM seeks to acquire permanent and temporary easements from property known as (No Number) Route 17A, Town of Tuxedo, County of Orange, New York, S.B.L. No. 1-1-34.2, MILLENNIUM Tract Nos. 11O359.12 and 11O360 and more specifically described in Exhibit 6 attached hereto and made a part hereof. Such permanent and temporary easements to be acquired shall run under, on, across and through such property.

9. MILLENNIUM has joined multiple properties in this condemnation action pursuant to Federal Rules of Civil Procedure 71A(b).

10. The permanent easements that MILLENNIUM seeks to acquire in this action will give MILLENNIUM the right to:

- construct, operate, inspect, maintain, replace, repair, alter the size of and remove or abandon (anywhere within the right-of-way area defined above in paragraphs 5-8 and in Exhibits 3-6 attached hereto) a pipeline or pipelines for transporting gas with associated fluids, or other substances that can be transported through pipelines, and appurtenant facilities including, but not limited to, cathodic protection and above-ground pipeline markers; and
- perform pre-construction work and post construction restoration work.

11. The temporary easements that MILLENNIUM seeks to acquire are for the purpose of work areas for use and exercisable during the construction, preconstruction and testing of the pipeline and restoration of the property owners' respective properties, as

reasonably required by MILLENNIUM for the purpose of constructing and testing the pipeline and restoring the properties and to conduct all activities incident thereto, terminating upon the approval of the completed work, testing and property restoration, unless sooner terminated by MILLENNIUM or its authorized representative. Such temporary easements shall be exercised in and to all those pieces or parcels of property designated in paragraphs 4-8 above and as Temporary Work Space and/or Extra Temporary Work Space in the descriptions attached hereto as Exhibits 2-6 reserving, however, to the respective property owners, successors or assigns, the right of using said properties and such use shall not be further limited or restricted under these temporary easements beyond that which is necessary to effectuate their purposes for the construction and testing of the pipeline and restoration of the properties.

12. The persons known to MILLENNIUM to have or claim an interest in the properties in which Millennium seeks to acquire permanent and temporary easements for the Project are:

<b>Person</b>	<b>Interest</b>	<b>Property</b>
Breakaway Trails, Inc. 1 Nirvana Plaza Forestport, NY 13338	Fee Owner; Liber 4194/Page 107	322 Sleepy Valley Road, Town of Warwick, County of Orange, New York, S.B.L. No. 31-1-17
Frank L. LoRusso 377 South Road Chilmark, MA 02535	Mortgagee; Liber 7157/Page 151	322 Sleepy Valley Road, Town of Warwick, County of Orange, New York, S.B.L. No. 31-1-17
Judith L. LoRusso 377 South Road Chilmark, MA 02535	Mortgagee; Liber 7157/Page 151	322 Sleepy Valley Road, Town of Warwick, County of Orange, New York, S.B.L. No. 31-1-17
Business Loan Center, Inc. 645 Madison Avenue 19 <sup>th</sup> Floor New York, NY 10022	Mortgagee; Liber 8210/Page 1 Assignment of Rents and Leases; Liber 5459/Page 215	322 Sleepy Valley Road, Town of Warwick, County of Orange, New York, S.B.L. No. 31-1-17

Person	Interest	Property
Clark Patterson Engineers, Surveyor, and Architects, P.C. 186 North Water Street Rochester, NY 14604	Judgment Creditor (Index No. 2002-4472)	322 Sleepy Valley Road, Town of Warwick, County of Orange, New York, S.B.L. No. 31-1-17
George Burkert 3 Pepper Road Towaco, NJ 07082	Fee Owner; Liber 2823/ Page 335	(No Number) Distillery Road, Town of Warwick, County of Orange, New York, S.B.L. No. 29-1-21
Anna Burkert 3 Pepper Road Towaco, NJ 07082	Fee Owner; Liber 2823/ Page 335	(No Number) Distillery Road, Town of Warwick, County of Orange, New York, S.B.L. No. 29-1-21
Adelia M. Masters 100 Allen Street Netcong, NJ 07857	Fee Owner; Liber 2993/ Page 640	(No Number) Route 42, Town of Forestburg, County of Sullivan, New York, S.B.L. No. 39-1-11
Michele Masters 177 Durham Court Hackettstown, NJ 07840	Fee Owner; Liber 2993/ Page 640	(No Number) Route 42, Town of Forestburg, County of Sullivan, New York, S.B.L. No. 39-1-11
William Gall 500 International Drive Suite 345 Mt. Olive, NJ 07828	Fee Owner; Liber 1071/ Page 248	(No Number) Route 42, Town of Forestburg, County of Sullivan, New York, S.B.L. No. 39-1-11
Leslie E. Smith, Jr. 500 International Drive Suite 345 Mt. Olive, NJ 07828	Fee Owner; Liber 1071/ Page 248	(No Number) Route 42, Town of Forestburg, County of Sullivan, New York, S.B.L. No. 39-1-11
Orange and Rockland Utilities, Inc. One Blue Hill Plaza Pearl River, NY 10965	Easement; Liber 248/Page 399	(No Number) Route 42, Town of Forestburg, County of Sullivan, New York, S.B.L. No. 39-1-11
Douglas A. Patzelt 65 Liberty Corners Road a/k/a 61 Liberty Corners Road Pine Island, NY 10969	Fee Owner; Liber 11170/Page 1801	65 Liberty Corners Road a/k/a 61 Liberty Corners Road, Town of Warwick, County of Orange, New York, S.B.L. No. 11-1- 21.2

Person	Interest	Property
Lauren Patzelt 65 Liberty Corners Road a/k/a 61 Liberty Corners Road Pine Island, NY 10969	Fee Owner; Liber 11170/Page 1801	65 Liberty Corners Road a/k/a 61 Liberty Corners Road, Town of Warwick, County of Orange, New York, S.B.L. No. 11-1- 21.2
Orange and Rockland Utilities, Inc. One Blue Hill Plaza Pearl River, NY 10965	Easement; Liber 1789/Page 833	65 Liberty Corners Road a/k/a 61 Liberty Corners Road, Town of Warwick, County of Orange, New York, S.B.L. No. 11-1- 21.2
GreenPoint Mortgage Funding, Inc. 100 Wood Hollow Drive Novato, CA 94945	Mortgage; Liber 11471/Page 70	65 Liberty Corners Road a/k/a 61 Liberty Corners Road, Town of Warwick, County of Orange, New York, S.B.L. No. 11-1- 21.2
Swiss North American Properties - USA, LLC 2725 Toxey Drive Raleigh, NC 27609	Fee Owner; Liber 12154/Page 1201	(No Number) Route 17A, Town of Tuxedo, County of Orange, New York, S.B.L. No. 1-1-34.2

13. The Fee Owners identified in paragraph 12 above may fully use and enjoy their respective properties in which MILLENNIUM seeks to acquire permanent and temporary easements to the extent that such use and enjoyment does not interfere with MILLENNIUM's permanent and temporary easements. However, the Fee Owners shall not, including but not limited to, change the depth of cover over any installed pipeline at the properties without the written consent of MILLENNIUM and shall not place or permit to be placed any temporary or permanent structure or obstruction of any kind, including but not limited to, buildings, mobile homes, trees, fences, paved roads or passage ways or the like on or over those portions of the properties to be encumbered by the permanent and temporary easements, and shall not store any materials of any kind or operate or allow to be operated any heavy machinery or equipment over such portions of the properties.



14. MILLENNIUM identifies Orange & Rockland Utilities, Inc. ("O&R") in this Complaint because, upon information and belief, it possesses easement interests in portions of the properties located at 65 Liberty Corners Road a/k/a 61 Liberty Corners Road, Town of Warwick, County of Orange, New York, S.B.L. No. 11-1-21.2 and at (No Number) Route 42, Town of Forestburg, County of Sullivan, New York, S.B.L. No. 39-1-11, in which MILLENNIUM seeks to acquire permanent and temporary easements. By this action, MILLENNIUM seeks permanent and temporary easements that will co-exist with O&R's easements identified in paragraph 12 of this Complaint.

15. In addition to the persons named in paragraph 12 of this Complaint, there are or may be others who have or may claim some interest in the properties identified in paragraphs 4-8 above, whose names are unknown to MILLENNIUM and on diligent inquiry have not been ascertained. They are made parties to the action under the designation "Unknown Others."

WHEREFORE, MILLENNIUM PIPELINE COMPANY, L.L.C. demands judgment that the permanent and temporary easements in the aforementioned properties be condemned and that just compensation for the takings be ascertained and awarded and for such other relief as may be lawful and proper.

**DATED:** June 18, 2007

**HISCOCK & BARCLAY, LLP**

By: /s/ Dennis R. McCoy  
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\*Application for admission to the United States District Court for the Southern District of New York pending; swearing-in ceremony scheduled for June 26, 2007.